



Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036-6797
+1 212 698 3500 Main
+1 212 698 3599 Fax
www.dechert.com

ANDREW LEVANDER

Andrew.Levander@dechert.com
+1 212 698 3683 Direct
+1 212 698 0483 Fax

December 26, 2024

Honorable Margaret M. Garnett
United States District Court for the Southern District of New York
40 Foley Square, Room 2102
New York, NY 10007

Re: *fuboTV Inc. v. The Walt Disney Company*, No. 1:24-cv-01363-MMG

Dear Judge Garnett:

I write on behalf of Defendants Fox Corporation (“Fox”) and Warner Bros. Discovery, Inc. (“WBD”). The Parties have met and conferred regarding the unsealing of the transcript from the December 13, 2024 hearing. Attached as Exhibit A are the portions of the transcript that Defendants respectfully request that the Court order sealed. No Party has raised any objections, and Plaintiffs fuboTV Inc. and fuboTV Media Inc. take no position on these redactions.

In ruling on a motion to seal, the Second Circuit has recognized that the right to public access to judicial documents is not absolute and that “the court must balance competing considerations against it.” *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006) (internal quotation marks and citations omitted). In particular, the Court must balance the right to public access to judicial documents against the privacy interest of the party or parties resisting disclosure. *See id.* at 119–20. This Court has followed that approach in this case to seal information regarding “confidential terms of competitively sensitive contracts.” Dkt. No. 295 at 1. Indeed, it has granted the Parties’ sealing motions for the legal memoranda that were filed with the Court prior to the December 13 hearing. *See* Dec. 13 Hearing Tr. at 3–5.

Like those memoranda, the December 13 transcript quotes and refers to confidential terms from competitively sensitive contracts. To maintain the confidentiality of those terms, defendants Fox and WBD seek to redact limited portions of the public transcript. Disclosure of such terms would provide competitors unfair insight into the Parties’ contracting practices and allow those competitors to use that knowledge to adjust their negotiating strategy, thereby harming the Parties’ competitive standing. These proposed redactions are “narrowly tailored to protect the business interests of the parties while providing sufficient public access” to the transcript. *Id.* at 5.

For these reasons, Defendants respectfully request that the Court maintain the portions of the transcript designated in Exhibit A under seal.



December 26, 2024
Page 2

Respectfully submitted,

/s/ Andrew J. Levander
Andrew J. Levander

cc: All counsel of record (**VIA ECF**)

GRANTED. The portions of the transcript counsel for Fox and Warner Bros. Discovery request to be kept under seal and in redacted form contain highly commercially sensitive and confidential business information including, for example, confidential terms of competitively sensitive contracts. The Court finds that sealing these portions is sufficiently narrowly tailored to both protect the business interests of the parties as well as provide appropriate public access to judicial documents. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119–20 (2d Cir. 2006). The proposed redactions indicated in Exhibit A, and as confirmed by counsel for Fox and Warner Brothers Discovery via email with Chambers, are therefore hereby SO ORDERED. The Court will convey the redactions, as confirmed by counsel, to the S.D.N.Y. Court Reporters to apply the sealing as directed herein.

SO ORDERED. Dated January 2, 2025.

A handwritten signature in black ink, appearing to read "Margaret M. Garnett", written over a horizontal line.

HON. MARGARET M. GARNETT
UNITED STATES DISTRICT JUDGE

Exhibit A

*fuboTV, Inc., et al. v. The Walt Disney Company, et al.***Case No.: 24-cv-01363-MMG**

Defendants' Proposed Confidentiality Redactions

December 13, 2024 Hearing Transcript

Motion to Dismiss Hearing Transcript – 12/13/2024 Defendants' Proposed Redactions
23:9 – 23:13
26:7 – 26:9
26:13
26:16 – 26:19
30:19 – 30:23
36:25 – 37:4
37:10 – 37:14
38:2
38:4 – 38:6
43:12 – 43:13
68:3 – 68:10
68:14 – 68:15
69:22 – 70:1
70:6
70:10
70:13
70:16
70:18
70:22 – 71:2
71:3 – 71:7
71:9 – 71:10
71:12
71:14 – 71:15
71:17 – 71:20
71:22 – 71:23
72:1 – 72:4

Motion to Dismiss Hearing Transcript – 12/13/2024 Defendants' Proposed Redactions
72:11 – 72:12
72:14 – 72:20
72:24
75:15 – 75:16
75:22 – 76:2
76:4 – 76:8
77:19
78:4 – 78:6
78:10 – 78:13
78:25 – 79:3
79:7
79:16
80:1 – 80:2
80:24
81:6
81:19
81:23
82:14
83:12
83:15
83:17
83:19
83:21
86:14
86:20
87:11 – 87:12
88:3
88:4 – 88:6
88:9 – 88:12
88:18 – 88:20

Motion to Dismiss Hearing Transcript – 12/13/2024 Defendants' Proposed Redactions	
	89:1 – 89:2
	89:3 – 89:5
	89:6 – 89:8
	89:11
	90:16
	90:21
	90:24 – 91:3
	91:11
	91:16 – 91:19
	92:18
	93:6 – 93:9
	93:14 – 93:15
	93:17
	95:24 – 95:25
	97:22 – 98:6
	98:19
	98:20 – 98:22
	159:1
	160:18 – 160:20
	160:25
	161:2 – 162:3